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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 09/814,308 | 03/22/2001 | Alan Paul Rolleston Phillips | ASTB-0044 | 4836 |

7590 01/19/2007

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| EXAMINER | |
| VAN DOREN, BETH | |

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| ART UNIT | PAPER NUMBER |
| 3623 | |

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| 01/19/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/814,308

Applicant(s)

PHILLIPS, ALAN PAUL
ROLLESTON

Examiner

Beth Van Doren

Art Unit

3623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 December 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 18-34.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Beth Van Doren
AU 3623
Patent Examiner

Continuation of 3. NOTE: New claim 35 presents limitations with new scope not previously considered, and thus requires further search and/or consideration.

Advisory Action

1. The following advisory action is in response to communications received 12/20/2006.
2. Applicant's arguments with regards to the 35 USC § 103 rejections based on Merriman et al. (U.S. 2002/0099600) in view of Eppen et al. (*Quantitative Concepts for Management*) have been fully considered, but they are not persuasive. In the remarks, Applicant argues that Merriman et al. in view of Eppen et al. does not teach and suggest the claimed minimization in the growth of regret and thus Examiner has not established a prima facie case of obviousness since Merriman et al. in view of Eppen et al. do not teach each and every limitation and further do not provide a motivation to combine.

In response to argument, Examiner respectfully disagrees. Eppen et al. was specifically relied upon to disclose the concept of regret as well as to disclose the minimization (or lowest expected) growth in regret after the chosen candidate action is performed. Examiner notes that no specific objective function is recited in the claims; rather its functionality is defined, such that it is optimized to show which action results in the lowest growth in expected regret. See page 503, page 504, and page 511, section 1, which specifically states that when the decision maker/software knows the probability distribution on the state of nature, regret can be minimized in a value function. See also page 512-513. Therefore, Eppen et al. does expressly disclose the minimization of the growth/development of regret, as further discussed in the response to arguments section presented in the final office action of 10/20/2006.

Examiner has provided art that teaches each and every limitation of the claimed invention, as explained above and as set forth below. Further examiner has provided motivation to combine the references, the motivation found within the references themselves. See

Art Unit: 3623

paragraphs 0002, 0008, and 0010 of Merriman et al., which disclose which disclose the opportunity cost of poorly performing served advertisements (actions) and how the system of Merriman et al. allows for more efficient use of actions by monitoring results and using a predictive model. See page 503 of Eppen et al., which discloses a framework for analyzing a wide variety of management problems using available information about the problem and a measure of goodness of a selected action, providing a pragmatic and practical aid in decision making. Eppen et al. specifically equates regret with opportunity costs. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use probability distributions and the theory of regret in the iterative predictive model of Merriman et al. in order to increase the efficiency of utilizing advertising/action space by providing a decision framework with which to analyze the various options.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

lwd
bvd

January 16, 2007

Beth Van Dora
AU 3623
Patent Examiner